



**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Board concludes the Award should be affirmed.

The Board agrees with and adopts as its own the findings and conclusions stated by the ALJ in the Award. Claimant may have believed that he was being hired for a full time position as a "temp to hire," but that is not what the record shows. The evidence proves claimant was hired as a day laborer and not as a "temp to hire" worker. Accordingly, claimant was not a full time employee. The Board affirms the finding that claimant was a part time hourly employee.

**Award**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Steven J. Howard dated December 5, 2003, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 2004.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: C. Albert Herdoiza, Attorney for Claimant  
Steven J. Quinn, Attorney for Respondent  
Steven J. Howard, Administrative Law Judge  
Paula Greathouse, Workers Compensation Director